

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JERRY SAMUEL LINDSEY,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 08-1047
)	
PHIL SHAFFER, Head Counselor;)	Judge Joy Flowers Conti
RICHARD GIGLIOTTI, Warden;)	Magistrate Judge Lisa Pupo Lenihan
ART MARX, Deputy Warden,)	
)	
Defendants.)	

ORDER

AND NOW, this 10th day of September, 2009;

IT IS HEREBY ORDERED that, with respect to plaintiff's claims of cruel and unusual punishment and denial of access to the courts, defendants' motion to dismiss pursuant (Doc. No. 13) to Rule 12(b)(6) is **GRANTED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED that plaintiff is given thirty (30) days from the date of this order to amend his complaint with respect to his claims of cruel and unusual punishment and denial of access to the courts. If plaintiff fails to amend his complaint with respect to these claims, defendants' motion to dismiss will be **GRANTED WITH PREJUDICE**.

IT IS FURTHER ORDERED that, insofar as plaintiff's complaint can be read to allege a denial of the right to a fair trial, defendants' Motion to Dismiss is **GRANTED**.

IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

By the Court,

/s/ JOY FLOWERS CONTI

Joy Flowers Conti

United States District Judge

cc: Jerry Samuel Lindsey
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